

the authority to provide by law for a new election in such a case, is a proposition so clear of rational doubt, that, but for the lawless and anarchical spirit of the day, which calls in question the most venerable and best settled doctrines of Constitutional law, and embraces in their stead the most wild and monstrous absurdities, no argument or authority would be necessary or even proper to sustain it. Even if the original constitutional provision on the subject remained entire and unchanged, the power to provide for the election in such a case, would be ample, but all such parts of that Constitutional provision, as relates to the *judges, time, place and manner* of holding elections, having been abolished at the November Sessions 1798 & 1799, and left thereafter to be regulated by law, it would seem impossible that doubt could be raised on the subject. Yet being aware that the authority of the General Assembly in this respect, has been not only questioned but strenuously denied, we deem it proper to refer to a few conclusive authorities in support of it. That eminent Jurist, James Kent, late Chancellor of New York, in the 2nd volume of his commentaries, says—that “the power of election, or the supplying of members in the room of such as are removed by death or *otherwise*, is said to be a power incident to, and necessarily implied in every aggregate corporation, *from the principle of self preservation*,” that “it was decided in the case of *Newling, vs. Francis*, 3d Term Reports, 189,” that “when the mode of electing corporate officers, was not regulated by charter or prescription, the corporation might make by-laws to regulate the election, provided they did not infringe the charter.” And he refers to various other authorities in support of his position. Such power being “an incident to, and necessarily implied in every aggregate corporation” how can it be doubted that the Legislative authority, which grant charters of incorporation, possess at least equal powers of “self preservation?”

That there is no existing legal provision for an election to supply vacancies in the Senatorial Electoral College, it is presumed, is for the same reason, that the punishment of the crime of Parricide, when first committed in the Athenian Commonwealth, was found to be unprovided for: because it had never entered into the conceptions